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**BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D.C., 20554**

In the Matter of)
)
Review of the Commission's Regulations) MM Docket No. 91-221
Governing Television Broadcasting)

To: The Commission

COMMENTS OF TELEMUNDO GROUP, INC.

Telemundo Group, Inc. ("Telemundo"), by its attorneys, hereby submits its Comments on the Commission's Second Further Notice of Proposed Rule Making, FCC 96-438 (released Nov. 7, 1996) ("Second NPRM") in the above-captioned proceeding.

I. INTRODUCTION

Telemundo is one of the leading sources of Spanish-language news, information and entertainment for the nation's growing, yet underserved, Hispanic population. Telemundo controls the licensees of seven full-power UHF television stations and one full-power VHF television station in San Juan, Puerto Rico. It also is the parent of Telemundo Network, Inc., which broadcasts 24 hours of Spanish-language programming per day for distribution to its own stations and to 43 additional affiliates across the country.

Telemundo welcomes the Commission's review of the local ownership ("duopoly") rule in this proceeding. For too long, the forces of innovation and growth in local television have been hamstrung by inefficiencies required by an outdated regulatory regime. New and growing broadcasters dedicated to local programming and

diversity are fighting an uphill battle with the only means available -- weaker distribution outlets with higher costs than their entrenched, established competitors. Exempting such broadcasters from the duopoly rule would provide for a more level playing field on which competition and diversity could flourish.

Specifically, Telemundo supports the adoption by the Commission of exemptions to the duopoly rule which:

1. Permit combinations involving at least one Spanish-language station, thereby ensuring continued and improved service to the unique needs of an important community in the U.S. which is otherwise unserved;
2. Permit UHF/UHF and UHF/VHF combinations; and
3. Permit combinations of any stations (UHF or VHF) in Puerto Rico.

Each of these situations is addressed in detail below. 1/

II. THE COMMISSION SHOULD CREATE AN EXEMPTION FROM THE DUOPOLY RULE FOR COMBINATIONS INVOLVING AT LEAST ONE SPANISH LANGUAGE STATION.

Telemundo makes a unique contribution to the public interest by providing programming to the expanding U.S. Hispanic population, which traditionally has been, and remains, unserved or underserved by mainstream television. Telemundo faces challenges in serving this community because of the higher costs associated with operating a Spanish language broadcast network in the U.S. and the difficulties associated with the Spanish language broadcast advertising market. Telemundo urges the Commission to permit same market combinations of Spanish language stations to

1/ To the extent that the Commission determines to attribute television LMAs in this proceeding, Telemundo also submits for the same reasons set forth herein that LMAs involving these situations should be exempted from attribution.

allow them to reduce their operating costs and to redirect resources to provide programming to meet the needs of their underserved viewers. 2/

A. Spanish Language Stations Make A Unique Public Interest Contribution To A Growing, Yet Underserved, Market.

1. The Dynamic Hispanic Market Is The Fastest Growing Market In The U.S.

As indicated by the attached market data (see Exhibit A hereto), the U.S. Hispanic market includes approximately *27 million people*. Exhibit A at 1. This unique market segment is projected to grow *six times faster* than non-Hispanic segments in the U.S. between 1995 and 2010, to a total of 42.1 million people. Id. Indeed, Hispanics are projected to be the largest minority group in the U.S. in 2005, comprising 13 percent of the total U.S. population. Id. at 2. Moreover, Hispanics are concentrated in several major U.S. markets such as Los Angeles, where over 5.6 million Hispanics currently constitute 37 percent of the population. Id. at 3.

2. Hispanics Rely Almost Exclusively On Spanish Language Television As Their Source Of News And Information.

Spanish language broadcasters like Telemundo play a vital role in providing news and information to the growing Hispanic market. Not only does television in general have deeper market penetration than radio or newspapers among Hispanics (id. at 4), but *Hispanics rely primarily on Spanish language television broadcasters as their source of news and information*. Telemundo's stations provide in-depth coverage of local, national and international events, including those of special

2/ In markets where there are other large foreign language speaking populations, it would be appropriate to treat stations broadcasting in those languages in the same way we are proposing for Spanish language stations.

interest to Hispanics, that frequently are overlooked by mainstream broadcasters. Many critical topics, including voter registration and immigration law issues, are covered much more extensively in Spanish-language television newscasts, which form the primary source of this important public information. Telemundo's commitment to these news services is reflected in the fact that one of its largest operating costs is directly related to the provision of news. Telemundo's news services include a twice-daily national newscast as well as fully operational local news organizations and news telecasts at each of Telemundo's owned and operated television stations. As a result, Hispanic viewers respond by looking primarily to Telemundo and other Spanish language television broadcasters for such programming.

Nielsen Research confirms the overwhelming reliance by Hispanics on Spanish-language news. A recent example showed that in four major markets with large Hispanic populations, the ratings among Hispanics for early evening newscasts on Spanish-language outlets exceeded the *combined* ratings of local ABC, NBC and CBS affiliate newscasts by a factor ranging from *180 to 260 percent*. ^{3/} For late evening newscasts, Spanish-language outlets outperformed local ABC, NBC and CBS affiliates *combined* by a factor of *20 to 150 percent*. *Id.*

3. Hispanics Overwhelmingly Prefer Spanish Language Entertainment Programming To Mainstream Programming.

Spanish language television stations have an aggregate primetime viewing share among Hispanic households that is greater than any other viewing source, including the four major networks and in-market independent stations

^{3/} See Nielsen Hispanic Station Index, February, 1997 for New York, Miami, Los Angeles and Chicago.

combined. Exhibit A at 5. Indeed, *all* of the top twenty rated shows among Hispanics during primetime in September, 1996 were carried by Spanish language stations. Id. at 6.

Meanwhile, mainstream broadcasters significantly underserve Hispanics. For instance, the average primetime rating in November 1996 for the four major networks among non-Hispanic adults aged 25 to 54 was 6.9, but was 55 percent less -- only 2.9 -- among total Hispanics ; and 85 percent less -- 1.0 -- among Hispanics who only or mostly speak Spanish at home ("Spanish Dominants"). Id. at 7. 4/

B. Spanish Language Broadcasters Face Unique Economic Challenges.

Spanish language broadcasters face a difficult task in attempting to meet the needs of their growing audience. Telemundo not only is subject to the cost disadvantages associated with UHF stations but it will soon be saddled with tremendous capital costs to convert to DTV.

Most importantly, however, Telemundo faces the extraordinary and unique economic challenge of having to produce original Spanish-language programming for its audience, since it cannot rely on simply acquiring programming through general market syndication. Meanwhile, the revenue available to Spanish language broadcasters to support their additional operating costs are substantially less on a per capita basis than the revenue available to mainstream broadcasters. In 1995,

4/ Similarly, the fifteen top-rated general market shows on the four major networks are significantly less viewed by Hispanics. The average rating for all of these shows among adults aged 25 to 54 in the total U.S. population is 12.0. Among total Hispanics, the average rating is only 4.5 -- 62 percent less, and among Spanish Dominants, the average rating is 1.1 -- 91 percent less. Exhibit A at 8, 9. The Commission also has recognized the fundamental discrepancy in viewing patterns between Hispanics and non-Hispanics.

Spanish language television had an aggregate audience share of 4 percent, but received *only* 1.7 percent of advertising revenue. ^{5/}

As their audience expands, Spanish language broadcasters like Telemundo need to devote increasing resources to programming and operations, but they find themselves squeezed by higher costs and lower advertising revenue per capita. By establishing an exemption from the duopoly rule, the Commission could free up an obvious source of additional resources -- the cost savings and efficiencies resulting from same market combinations. In doing so, the Commission would promote diversity and competition by enabling Spanish language broadcasters to keep pace with the expanding, largely underserved Hispanic market, and in particular to fill the clearly demonstrated need for news in Spanish.

C. Allowing Spanish-Language Stations To Combine With General Market Stations Will Not Have An Adverse Impact On Diversity.

The Commission has recognized that Spanish-language stations serve a clearly distinct market from general market stations. For instance, the Commission concluded that a station's change from Spanish to English language broadcasting is "the sort of fundamental operational change which warrants treating a station as essentially 'new' for the purposes of establishing significantly viewed status" under Section 76.54(d) of the Commission's rules. ^{6/} The Commission reasoned that such a change would make programming "suddenly understandable to a far greater audience,

^{5/} See Goldsmith, J., "Spanish Language TV Is Booming But Ad Revenue Hasn't Kept Pace," Wall St. J., September 13, 1996 at B2.

^{6/} See Fox Television Stations, Inc., 8 FCC Rcd 3213, 3214 (released May 14, 1993).

who were previously precluded from utilizing the station's service." Id. Therefore, allowing combinations of general market (i.e., English language) stations and Spanish language stations will have no negative impact on the Commission's interest in maintaining diversity.

D. The Commission Has Supported The Development of Spanish Language Television By Waiving Its Rules.

Fostering foreign-language programming is a recognized goal of the Commission, which has waived its rules previously to facilitate the development of Spanish-language broadcasters. For instance, the Commission granted permanent waivers of the network representation rule to several growing Spanish-language television networks, including Telemundo. 7/ The Commission's analysis reveals its appreciation of the public interest benefits that flow from such actions:

Moreover, the record evidence in this proceeding shows that the waivers of the network representation rule granted to both Univision and Telemundo continue to provide additional benefits in that they further several of the Commission's longstanding goals: encouraging the growth and development of new networks; fostering foreign-language programming; increasing programming diversity; strengthening competition among stations; and fostering a competitive UHF service. 8/

Adopting an exemption from the duopoly rule will yield similar public interest benefits by boosting the ability of Spanish language broadcasters to meet the needs of their growing, but underserved, audience.

III. THE COMMISSION SHOULD CREATE AN EXEMPTION FROM THE DUOPOLY RULE FOR COMBINATIONS INVOLVING AT LEAST ONE UHF STATION

7/ See Network Representation Rule, 68 R.R. 2d 641 (1990)

8/ Id. at ¶12.

UHF stations are disadvantaged in the most fundamental way for television broadcasting -- the ability to reach the public with a viewable signal of optimum quality. Typical UHF stations operate with only one-half to two-thirds of the reach of VHF stations; indeed, due to height and utility cost constraints, many operate with significantly less coverage. Numerous other parties have provided and will provide comments in this proceeding which recognize this critical problem. 9/

These unavoidable UHF technical deficiencies translate directly into significant economic disadvantages. UHF stations typically generate less revenue than VHF stations because the reach and audience of UHF stations are smaller. In order to rectify this difference, UHF stations must broadcast at higher power levels and incur substantially higher operating costs than VHF stations. 10/ The competitive disadvantages vis-à-vis VHF stations are magnified when a UHF station seeks to reach viewers who typically do not subscribe to cable service and frequently rely on inferior indoor antennas for reception.

9/ Second FNPRM at n.58 and ¶39. The television broadcasting industry has recognized the shortcomings of UHF stations on numerous occasions. Most recently, the joint Board of Directors of the National Association of Broadcasters passed a resolution last week urging the Commission to permit UHF/UHF and UHF/VHF combinations in the same market and will file comments to that effect.

10/ The House Commerce Committee has stated that the need for substantial deregulation of the local television ownership rules is "especially true with respect to UHF stations which continue to operate with significant technical and economic handicaps Permitting common ownership of stations will promote the public interest by harnessing operating efficiencies of commonly owned facilities, thereby increasing competition and diversity. H.R. REP. NO. 204, 104th CONG., 1ST SESS. 118 (1995).

The Commission repeatedly has recognized the weaknesses of UHF stations, 11/ perhaps most notably in its multiple ownership rules, which significantly discount the coverage value of UHF stations. 12/ The Commission also has recognized these economic handicaps in granting duopoly rule waivers to permit combinations involving UHF stations. 13/ These cases and the recognized weaknesses of UHF stations provide strong support for the adoption by the Commission of a general exemption from the duopoly rule for same market combinations involving at least one UHF station. Such a general exemption would provide greater certainty while conserving the limited resources of the Commission and broadcasters alike by obviating the need for case-by-case waiver analyses.

IV. THE COMMISSION SHOULD PERMIT SAME MARKET VHF/VHF COMBINATIONS IN UNIQUE MARKET SITUATIONS.

The Commission should create a rebuttable presumption for a waiver of the duopoly rule for same market VHF/VHF combinations in unique market situations. One such market is Puerto Rico. Because of unique circumstances, including terrain, an unusually large geographic area constituting the DMA, and other burdensome factors, Puerto Rico has a documented history of numerous television station failures --

11/ See, e.g., Multiple Ownership of AM, FM and Television Broadcast Stations, 100 F.C.C.2d 74, 93 (1985) ("the fundamental limitation of UHF television involves its ability physically to reach viewers"); Improvements to UHF Television Reception, 90 F.C.C.2d 1121 (1982) (summarizing the decades-long effort by Congress and the Commission to improve the technical quality of UHF television).

12/ See 47 C.F.R. 73.3555(e)(2)(i); Second NPRM at n.60.

13/ See, e.g., Act III Communications Holdings, L.P., 11 FCC Rcd 5735, 5737 (1996) (citing increased operational and signal propagation costs associated with UHF stations); Sunshine Television, Inc., 8 FCC Rcd 4428, 4429 (1993) (citing FCC study showing heavy financial losses for UHF stations).

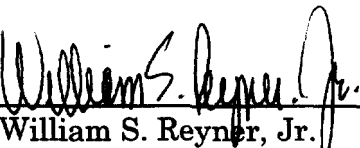
a history which continues to this day. By permitting *any* two stations to combine in Puerto Rico, the Commission could dramatically improve the operating environment for current and future broadcasters in this unique market.

V. CONCLUSION

The Commission can bolster competition and diversity by permitting UHF stations and Spanish-language stations to obtain the benefits of same market combinations. For the foregoing reasons, the Commission should adopt exemptions from the duopoly rule for (a) combinations involving at least one Spanish language television station, (b) combinations involving at least one UHF station and (c) in unique markets such as Puerto Rico.

Respectfully submitted,

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February 7, 1997

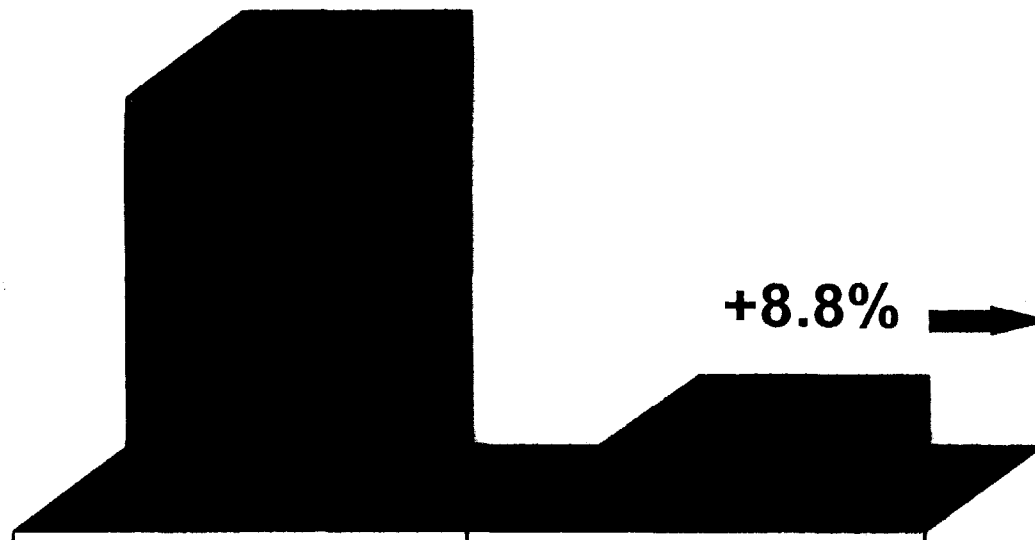
Exhibit A

The Hispanic Market Is Projected To Grow 6 Times Faster Than Non-Hispanics



Projected U.S. Population Growth 1995-2010

+52.8% ➡ *From 26.9 to 42.1 Million*



Hispanics

Non-
Hispanics

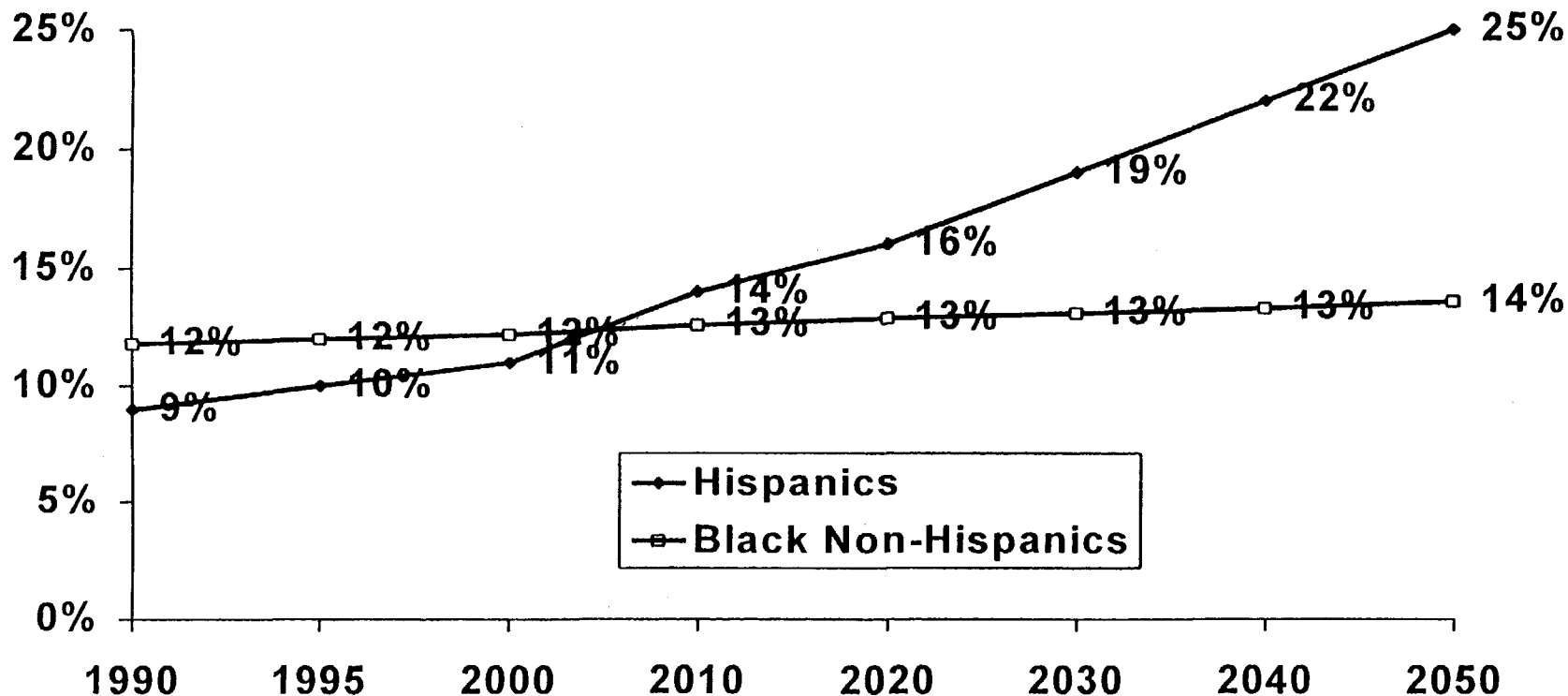
+8.8% ➡ *From 235.9 to 256.6 Million*

Source: U.S. Census "Current Population Reports," Feb'96

In 2005, Hispanics Will Be The Leading Minority Group In the U.S.



Hispanics As A % Of Total Population



Source: U.S. Census "Current Population Reports," Feb'96

Hispanics Are A Key Consumer Segment In Major U.S. Markets



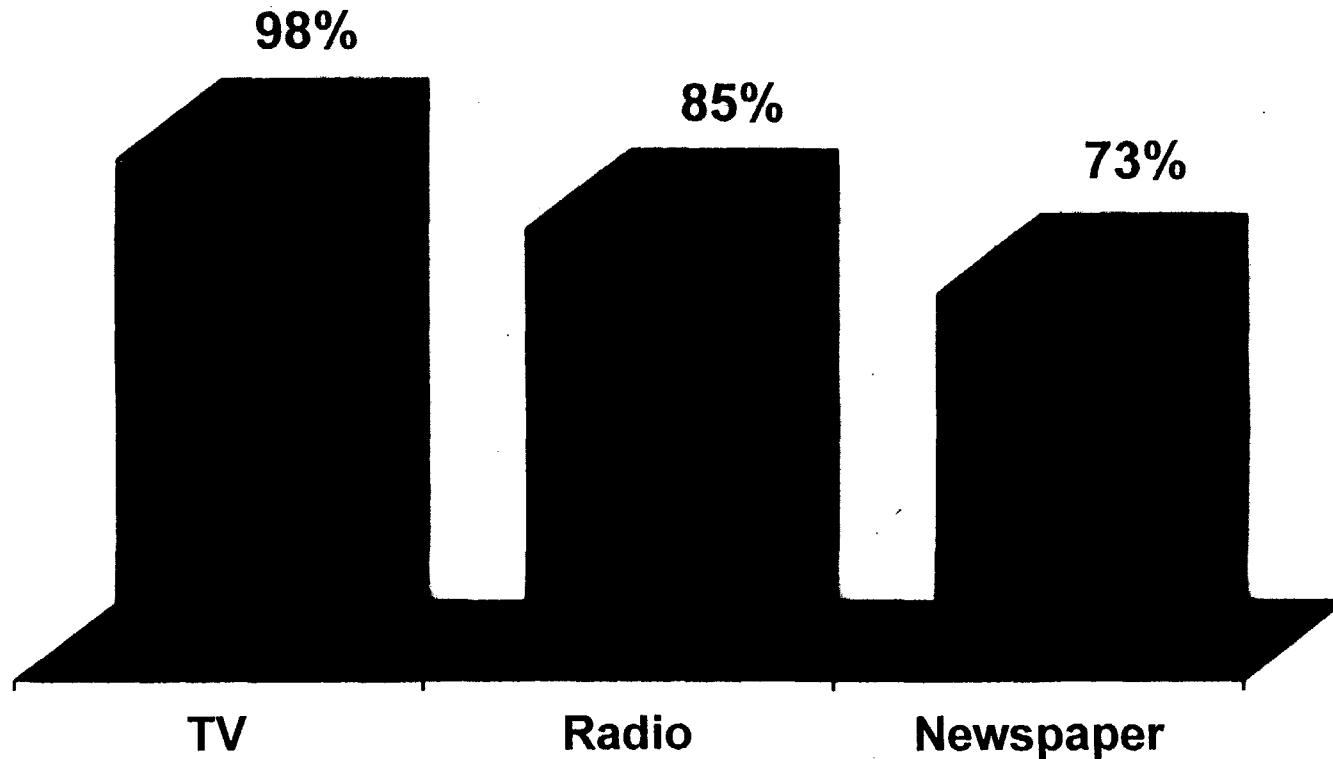
| | DMA | Hispanic Population | % Hispanic |
|----|-------------------|---------------------|--------------|
| 1 | Los Angeles | 5,683,860 | 36.6% |
| 2 | New York | 3,162,257 | 16.7% |
| 3 | Miami | 1,277,195 | 35.7% |
| 4 | San Francisco | 1,152,816 | 18.0% |
| 5 | Houston | 1,102,060 | 24.2% |
| 6 | Chicago | 1,097,266 | 12.5% |
| 7 | San Antonio | 945,775 | 49.8% |
| 8 | Harlingen | 760,672 | 86.3% |
| 9 | Dallas | 751,106 | 15.2% |
| 10 | San Diego | 642,322 | 23.8% |
| 11 | Fresno | 640,192 | 41.0% |
| 12 | El Paso | 613,369 | 70.9% |
| 13 | Albuquerque | 585,322 | 37.9% |
| 14 | Phoenix | 570,572 | 17.9% |
| 15 | Sacramento | 555,214 | 17.9% |
| | Total U.S. | 27,793,304 | 10.5% |

Source: Claritas, 1996

Television Delivers The Strongest Hispanic Market Penetration



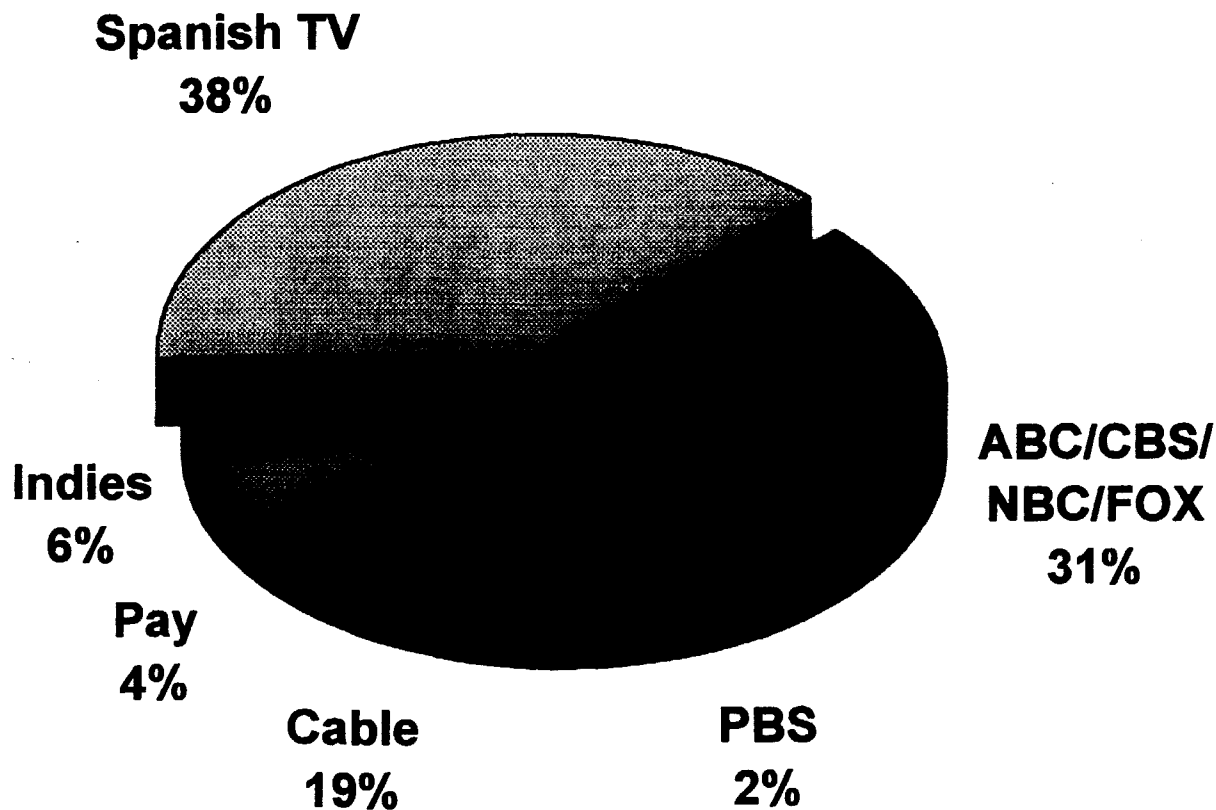
% Watch/Listen/Read (in any language)



Source: Yankelovich/MDI Hispanic MONITOR, 1994

Spanish TV Outperforms All Other Viewing Sources, Including The 4 Major Networks Combined

Hispanic Households/Primetime Viewing Shares



Source: NHTI, Nov'96

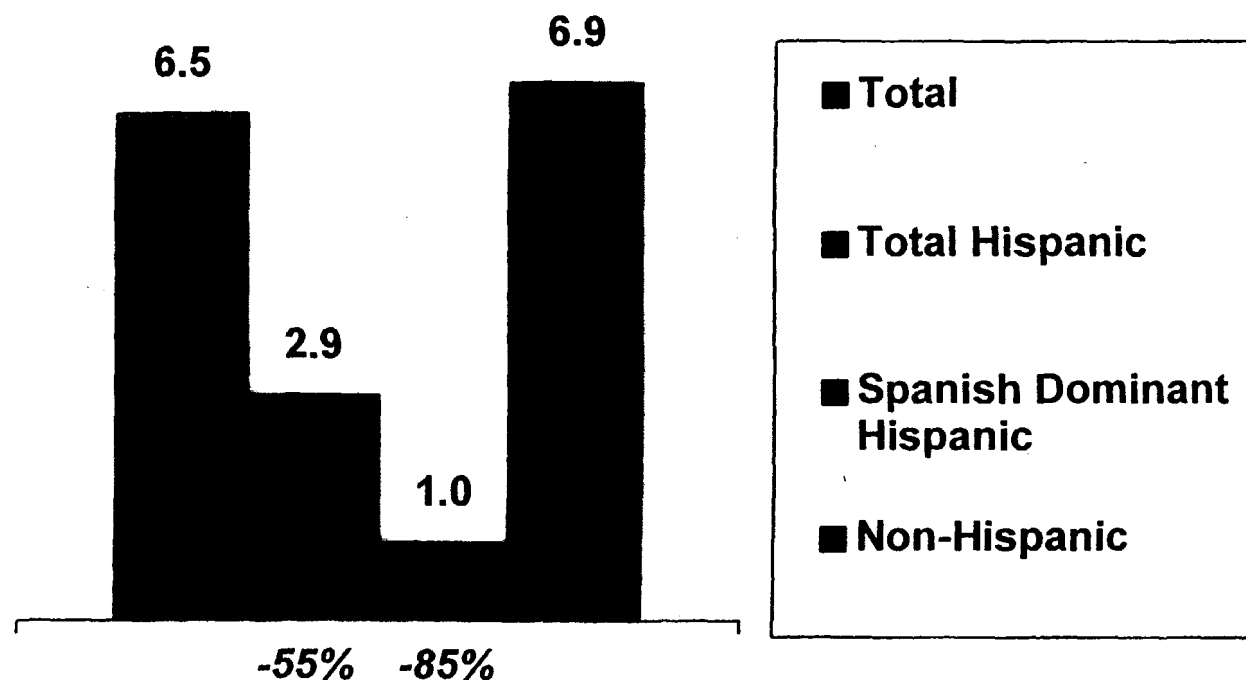
Nielsen Hispanic Television Index
September 1996
Monday-Sunday 7pm-11pm
Top 20 Programs-All Networks Households

| | <u>Program</u> | <u>Net</u> | <u>Date</u> | <u>AA%</u> |
|----|-------------------------------------|------------|----------------|------------|
| 1 | Marisol | Univision | M-F 7p-8p | 24.4 |
| 2 | Aqui Ahora T.Rodriguez 9/24 (S) | Univision | Tues 9p-10p | 21.2 |
| 3 | Pobre Nina Rica | Univision | M-F 8.30p-10p | 18.9 |
| 4 | Cancion De Amor | Univision | M-F 8p-8.30p | 18.1 |
| 4 | Marisol-Fri 9/27 (S) | Univision | Fri 7p-8p | 18.1 |
| 6 | Con Sabor A Mexico 9/15 (S) | Univision | Sun 7p-10p | 17.8 |
| 7 | Grandes Bodas - TV/Novelas 9/2 (S) | Univision | Mon 7p-8p | 17.1 |
| 7 | Sabado Gigante | Univision | Sat 8p-11p | 17.1 |
| 9 | Premios Heraldo '96 9/6 (S) | Univision | Fri 10p-11p | 16.9 |
| 10 | Primer Impacto E.Nocturna | Univision | Tues 10p-11p | 16.7 |
| 11 | Amor Gigante (Prem. 9/28) | Univision | Sat 7p-8p | 16.3 |
| 12 | A Traves Del Video - Fri | Univision | Fri 10p-11p | 15.8 |
| 13 | Bienvenidos | Univision | Thurs 10p-11p | 15.6 |
| 14 | Miss Universo-Cunta Todo 9/20 (S) | Univision | Fri 10p-11p | 15.3 |
| 15 | Cristina Edicion Especial | Univision | Mon 10p-11p | 15.1 |
| 16 | Complices En Familia (Prem 9/29) | Univision | Sun 8p-9p | 14.9 |
| 17 | Fuera De Serie | Univision | Wed 10p-10.30p | 14.3 |
| 18 | Buen Humor - Sabado Gigante | Univision | Sat 7p-8p | 14.2 |
| 19 | Angelica Maria: Grn.Homena 9/29 (S) | Univision | Sun 9p-11p | 13.4 |
| 20 | Miss Venezuela 1996 9/22 (S) | Univision | Sun 8p-11p | 12.7 |

NOTE: Each rating point equals 75,100 Hispanic TV households.

English Language Networks Underdeliver The Hispanic Market **T**

Average Primetime Rating for ABC, CBS, NBC & FOX
Adults 25-54



Source: NTI & NHTI, Nov'96

The Top-Rated General Market Shows Underdeliver Hispanics By 62%



Top 15 Programs*

| Program | Total U.S. Rtg. Ad. 25-54 | Hispanic Rtg. Ad. 25-54 | Index |
|---------------------------|------------------------------|----------------------------|-------|
| E.R. | 19.9 | 5.6 | 28 |
| Seinfeld | 17.9 | 5.7 | 32 |
| Suddenly Susan | 14.8 | 4.7 | 32 |
| Friends | 14.2 | 4.1 | 29 |
| Single Guy | 13.1 | 3.9 | 30 |
| Home Improvement | 11.9 | 3.9 | 33 |
| NFL Monday Night Football | 10.8 | 5.7 | 53 |
| X-Files | 10.6 | 4.9 | 46 |
| Drew Carey Show | 10.5 | 3.7 | 35 |
| NYPD Blue | 10.1 | 3.8 | 38 |
| Spin City | 9.8 | 3.2 | 33 |
| Third Rock from the Sun | 9.7 | 3.5 | 36 |
| Frasier | 9.5 | 2.7 | 28 |
| Caroline In The City | 8.9 | 3.0 | 34 |
| Mad About You | 8.9 | 2.8 | 31 |
| 15 Program Average | 12.0 | 4.5 | 38 |

Source: NTI & NHTI, Nov'96 / *Ranked among ABC, CBS, NBC & Fox

The Top-Rated General Market Shows Underdeliver Spanish Dominants By 91%

Top 15 Programs*

| Program | Total U.S. Rtg. Ad. 25-54 | Span. Dom. Rtg. Ad. 25-54 | Index |
|---------------------------|------------------------------|------------------------------|-------|
| E.R. | 19.9 | 1.1 | 6 |
| Seinfeld | 17.9 | 1.2 | 7 |
| Suddenly Susan | 14.8 | 1.0 | 7 |
| Friends | 14.2 | 0.6 | 4 |
| Single Guy | 13.1 | 0.7 | 5 |
| Home Improvement | 11.9 | 0.8 | 7 |
| NFL Monday Night Football | 10.8 | 1.9 | 18 |
| X-Files | 10.6 | 1.5 | 14 |
| Drew Carey Show | 10.5 | 0.4 | 4 |
| NYPD Blue | 10.1 | 0.7 | 7 |
| Spin City | 9.8 | 0.3 | 3 |
| Third Rock from the Sun | 9.7 | 0.9 | 9 |
| Frasier | 9.5 | 0.6 | 6 |
| Caroline In The City | 8.9 | 0.6 | 7 |
| Mad About You | 8.9 | 0.3 | 3 |
| 15 Program Average | 12.0 | 1.1 | 9 |

Source: NTI & NHTI, Nov'96 / *Ranked among ABC, CBS, NBC & Fox